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PUNJAB VIDHAN SABHA SECRETARIAT

NOTIFICATION

The 11th November, 2021

No. 38-PLA-2021/75.-The Punjab Protection And Regularisation of Contractual Employees' Bill, 2021 is hereby published for general information under the proviso to rule 121 of the Rules of Procedure and Conduct of Business in the Punjab Vidhan Sabha (Punjab Legislative Assembly):-

Bill No.38-PLA-2021

THE PUNJAB PROTECTION AND REGULARISATION OF CONTRACTUAL EMPLOYEES' BILL, 2021

A

BILL

to provide for the protection and regularisation of services of employees working on contractual basis in any Department to protect loss of their livelihood.

BE it enacted by the Legislature of the State of Punjab in the Seventy-second Year of the Republic of India as follows: -

1. (1) This Act may be called the Punjab Protection and Regularisation of Contractual Employees' Act, 2021. Short title and commencement.

(4065)

(2) It shall come into force on and with effect from the date of its publication in the Official Gazette.

Definitions.

2. In this Act, unless the context otherwise requires,-

- (a) "Act" means the Punjab Protection and Regularisation of Contractual Employees' Act, 2021;
- (b) "adhoc employee" means an employee, other than a regular employee, recruited for a particular work but continued, without a break, for a job of recurrent nature;
- (c) "contractual employees" for the purpose of this Act shall only include the following persons, who are recruited prior to the date of commencement of this Act, namely:-
 - (i) employed on the basis of contract in a Department for a job, which is continuous in nature;
 - (ii) employed on temporary basis;
 - (iii) employed on adhoc basis;
 - (iv) employed on work- charge basis; and
 - (v) employed on daily-wage basis:

Provided that the term contractual employees shall not include the persons engaged in a Department through a private agency or outsource for performing a duty, from time to time:

Provided further that the contractual employees shall not include the persons appointed on tenure posts that are co-terminus with the life of the project or scheme of the State or Central Government, as the case may be, and those who were appointed on an academic arrangement for a fixed term in any Department:

Provided further that the contractual employees shall not include the persons working on a post, whose tenure is co-terminus with the tenure of any office.

- (d) "competent authority" means the authority competent to appoint or recruit a person in the service of any Department;
- (e) "daily-wage employee" means the employee recruited by a Department for day-to-day performance of a given job;
- (f) "Department" means any Department of the Government of Punjab;
- (g) "employed on work-charge basis" shall have same meaning, as assigned to it in Part II-Work Charged Establishment of Chapter 1 of Public Works Department Code;
- (h) "Government" means the Government of the State of Punjab;
- (i) "Group 'C' posts" means the posts having Grade Pay in range of Rs.1900-3799, as per the recommendations of the Fifth Punjab Pay Commission, as amended from time to time;
- (j) "Group 'D' posts" means the posts having Grade Pay less than Rs.1900, as per the recommendations of the Fifth Punjab Pay Commission, as amended from time to time;
- (k) "service rules" means all the relevant, general and specific rules governing recruitment to the services of the Department;
- (l) "Specific Purpose Contract" means a contract, which is entered with the Department for the performance or achievement of a specific job during a specified period; and
- (m) "temporary employees" means an employee who is recruited for a limited period.

3. (1) Notwithstanding anything contained in any other law for the time being in force in the State of Punjab, services of such contractual employees, who have been working on contractual basis in the Department against Group 'C' or Group 'D' posts for a continuous period of not less than ten years preceding the date of coming into force of this Act, may be regularised by the competent authority, subject to the following conditions, namely:-

Regularisation and protection of services of Group 'C' and Group 'D' contractual employees.

- (a) the contractual employee must have fulfilled the eligibility criteria with regard to minimum and maximum age limit at the time of initial appointment;
- (b) the contractual employee must have possessed the requisite educational qualifications and experience, as specified for the post at the time of initial appointment;
- (c) the initial appointment was made through open selection from amongst all eligible persons by way of advertisement;
- (d) the contractual employee's continuous service was not under the aid of any order of the court or tribunal;
- (e) the contractual employee is of good character and his antecedents are verified to be satisfactory; and
- (f) the contractual employee has not been indicted in any criminal or departmental inquiry or proceedings nor any criminal or departmental inquiry or proceedings have been initiated against him, as on the date of consideration of regularization of his services under this Act.

(2) The regularization of service of a contractual employee under this Act shall be effective from the date on which the competent authority passes the order of regularization of services of an employee.

(3) The services of contractual employees shall be regularised against the sanctioned posts in the Department meant for direct recruitment.

(4) If the number of contractual employees who are being regularised is more than the existing vacant posts in the Department, then additional posts shall be deemed to have been created to regularise the services of those contractual employees:

Provided that such deemed posts created in excess of the already existing sanctioned posts shall be the posts personal to the incumbent and shall stand abolished on vacation of post by the incumbent.

Explanation.- While creating the additional posts, the proportion of reservation shall be maintained in compliance with the provisions of the Punjab Scheduled Castes and Backward Classes (Reservation in Services) Act, 2006 (Punjab Act No. 12 of 2006).

(5) The contractual employees, whose services are regularised on the basis of their past contractual service, shall not be entitled to any other benefit from the original date of their joining on contractual basis or from any other retrospective date.

(6) The contractual employees whose services are regularised, shall be on probation, from the date of regularisation of their services, for such period, as may be specified in the Punjab Civil Services (General and Common Conditions of Service) Rules, 1994.

(7) During the probation period, the contractual employees whose services are regularised under this Act, shall be entitled to draw, as a stipend, a lump-sum salary equivalent to the minimum of the Pay Matrix Level applicable to the post against which his services have been regularised or actual remuneration being received at the time of regularisation, whichever is more.

4. (1) If a contractual employee has not completed ten years of service and, therefore, his services cannot be regularised immediately under the provisions of this Act, he shall, if his services are required by the Department, be allowed to continue, as such, on the existing terms and conditions, till the services of such contractual employee are considered for regularisation, after completion of a continuous period of ten years of service.

(2) Nothing in sub-section (1) shall apply in the following circumstances, namely:-

- (a) a contractual employee did not fulfil the eligibility conditions with regard to the minimum and maximum age, educational qualifications and essential experience;
- (b) initial appointment was ab-initio illegal;

Protection of services.

- (c) antecedents of a contractual employee were not found satisfactory;
- (d) a contractual employee completes the age of superannuation or resigns; and
- (e) where a contractual employee was indicted or is undergoing any criminal or departmental proceedings or was found to be of unsound mind.

Manner of regularisation.

5. (1) The regularisation of services of eligible contractual employees, as per the provisions of this Act, shall be made keeping in view the seniority of the eligible contractual employees and such seniority shall be based on the initial date of entry into service, as contractual employees.

(2) The process of regularisation shall be continued till such time all the existing contractual employees are regularised, as per the provisions of this Act.

(3) All the Departments shall seek options from their respective eligible contractual employees and such an option shall be final.

(4) All the Departments shall prepare and submit their respective lists of eligible contractual employees, as on the date of publication of this Act to the Department of Finance. Such lists shall not be altered, except in circumstances mentioned in sub-section (1) of section 3.

Bar on contractual recruitment.

6. There shall be no further recruitment of contractual employees by any Department, except for a specific purpose such as consultancy services, requirement of manpower having specialized skills or manpower required for some State or Central Government Scheme:

Provided that such specific purpose contractual employees shall not have any right to regularisation in service and their services shall mandatorily be discontinued either on performance of the assigned task or on achievement of specific purpose or on completion of the period of such contractual appointment, whichever is earlier:

Provided further that under no circumstances, these contracts shall be

renewed or extended by the Department. If, however, such a contract for a specific purpose is still required, then the Department after terminating the existing contract, shall sign a fresh contract, after following the due process.

7. (1) The seniority of the contractual employees whose services have been regularised under this Act, shall be fixed below the junior most employee in the relevant cadre of the Department on the date of issue of orders for regularisation. Seniority.

(2) The *inter-se* seniority of the contractual employees, whose services have been regularised under this Act, shall be determined as per provisions of the Punjab Civil Services (General and Common Conditions of Service) Rules, 1994.

8. (1) The Punjab Scheduled Castes and Backward Classes (Reservation in Services) Act, 2006 (Punjab Act No. 12 of 2006) shall be applicable *ipso-facto* in filling the available sanctioned posts with regularisation of services of contractual employees under this Act. Reservation.

(2) The provisions contained in the Right of Persons with Disabilities Act, 2016 (Central Act No. 49 of 2016) shall be applicable *ipso-facto* in filling the available sanctioned posts with regularisation of services of contractual employees under this Act.

9. Subject to the provisions of this Act, the contractual employees, whose services have been regularised under this Act, shall be governed by the conditions of service, as are applicable to the employees in the respective cadre in which they stand regularised. They shall also be governed by the Punjab Civil Services (General and Common Conditions of Service) Rules, 1994, the Punjab Civil Services (Punishment and Appeal) Rules, 1970, and such other rules, as are applicable to the employees of the cadre in which their services have been regularised. Applicability of rules.

10. Notwithstanding anything contained in this Act or any other law for the time being in force, the Government, if it has reason to believe that it is in administrative interest, may offer regularisation of services of any class or classes of persons working with the Government. Power of Government.

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Protection of action taken in good faith.

11. No suit, prosecution or other legal proceedings shall lie against the officers of the Government for anything done in good faith under this Act.

Civil Court not to have jurisdiction.

12. No Court or Tribunal shall have jurisdiction to entertain any suit or proceeding in respect of any claim for absorption or continuation arising from the provisions of this Act.

Power to remove difficulty.

13. If any difficulty arises in giving effect to any of the provisions of this Act, the Government may, by general or special order, published in the Official Gazette, make such provision, not inconsistent with the provisions of this Act, as may appear to it to be necessary or expedient for removing such difficulty:

Provided that no such order shall be made under this section after the expiry of a period of two years from the date of commencement of this Act.

Repealing of Punjab Act No. 55 of 2016.

14. The Punjab Adhoc, Contractual, Daily Wage, Temporary, Work Charged and Outsourced Employees' Welfare Act, 2016 (Punjab Act No. 55 of 2016), is hereby repealed.

STATEMENT OF OBJECTS AND REASONS

With a view to protect the livelihood Group C and D employees working on Adhoc, Contractual, Daily wage, Temporary and Work-charged basis in the State Government has been decided to regularize their services. The Punjab Protection and Regularization of Contractual Employees' Bill, 2021 aims to regularize the services Adhoc, Contractual, Daily wage, Temporary and Work-charged employees working under Government of Punjab. Hence, the Bill.

CHARANJIT SINGH CHANNI
Chief Minister, Punjab

FINANCIAL MEMORANDUM

The Punjab Protection and Regularization of Contractual Employees' Bill, 2021, aims to regularize services of employees. This Bill involves financial implications and it is estimated that the annual financial implication will be approximately Rs 872.87 cr and the total additional liability for the first 3 years would be around Rs. 407.80 cr on account of regularizing the services of Group- C and D employees working on Adhoc, Contractual, Daily wage, Temporary and Work-charged basis.

The Governor has, in pursuance of clause (1) and (3) of Article 207 of the Constitution of India, recommended to the Punjab Legislative Assembly, the introduction and consideration of the Bill.

CHANDIGARH
THE 11TH NOVEMBER, 2021

SURINDER PAL,
SECRETARY.